

REMARKS

Obviousness-type Double Patenting Rejection in view of US 7,235,579

Claims 4, 8-11, 28-46 are rejected as allegedly being obvious in view of claim 4 of US 7,235,579 (Liu et al.). This rejection is respectfully traversed.

In the rejection, it is alleged that applicants' claims and claim 4 of US '579 overlap. Applicants respectfully disagree.

In the rejection, it is asserted that the claims of the instant application recite subject matter wherein R³ is -CH₂CONR⁶R⁵, R⁶ is H, and R⁵ is aryl, and that this subject overlaps the literal scope of claim 4 of US '579. However, claim 4 of the instant application recites at the end of the claim that "when R³ is -CH₂CONR⁶R⁵, R⁵ is benzyl, thiazolyl, benzoxazolyl, benzthiazolyl, benzimidazoyl, benzothiazolyl, tetrahydroisoquinolinyl, thiadiazolyl, indolyl, indanyl, benzodioxanyl, -CH₂-benzothiazolyl, or -CH₂-pyridinyl, which in each case is substituted or unsubstituted."

Applicants note that claim 4 of US '579 also recites that R⁵ can also be a heterocyclic group, which is saturated, partially saturated or fully unsaturated, having 5 to 10 ring atoms in which at least 1 ring atom is a N, O or S atom, which is unsubstituted or substituted one or more times by halogen, aryl, alkyl, alkoxy, alkoxycarbonyl, cyano, trifluoromethyl, nitro, oxo, amino, alkylamino, dialkylamino, or combinations thereof. However, the claims of US '579 do not lead one of ordinary skill in the art to the R⁵ groups recited in the proviso clause of applicants' claim 4. Mere disclosure of a broad chemical genus does not render obvious every species encompassed therein. See, e.g., *In re Jones*, 21 USPQ2d 1941, 1943, (Fed. Cir. 1992), and *In re Baird*, 29 USPQ2d 1550 (Fed. Cir. 1994).

In view of the above remarks, withdrawal of this sole ground of rejection and allowance of the instant application is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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